

***SANTA CLARA COUNTY POLICE CHIEFS' ASSOCIATION***



**MODEL IMMIGRATION VIOLATION  
ENFORCEMENT POLICY**

**2017**

Adopted June 8, 2017



## SANTA CLARA COUNTY POLICE CHIEFS' ASSOCIATION

### MODEL IMMIGRATION VIOLATION ENFORCEMENT POLICY

#### POLICY STATEMENT

On March 9, 2017, in response to growing concerns over changes in the Federal stance on immigration enforcement, the Santa Clara County Police Chiefs' Association addressed the following open letter to the residents and guests of Santa Clara County.

*Speaking as law enforcement professionals who are entrusted to protect our communities, it is with great concern that we find ourselves at a time when many in our most vulnerable communities have grown uncertain that they are safe in their own homes, their own jobs, their own neighborhoods, even within their places of worship. Their new fear is not that criminals will victimize them, but that their own local government may target them based on their immigration status.*

*Immigration issues are a sensitive issue in our county. The fear of local police departments undertaking immigration enforcement has been a lingering thought in some of our most vulnerable communities; however, never more than now. The Santa Clara County Police Chiefs' Association wishes to reassure our communities that our stance on immigration enforcement will remain consistent throughout our county. The agencies of this county will not enforce federal immigration laws. Our officers will not detain or arrest any person on the basis of the person's citizenship or status under civil immigration laws. It is neither our mission nor our role. Our departments recognize that mutual trust and respect is the cornerstone in building a solid foundation for our success, and we will treat all of our residents with dignity regardless of status.*

*We will always encourage victims and witnesses to contact our departments about reporting or witnessing crime without fear of reprisal as without this cooperation we would be ineffective as public servants. Because of the trust we have built together, we have been able to solve crimes that would have otherwise affected our entire county, because of this trust we have brought justice to many victims. We have enjoyed tremendous support from our communities and want to reassure everyone that the Santa Clara County Police Chiefs' Association wishes to maintain strong ties with our immigrant community.*

*We understand there is fear in certain segments of our community. We are here to assure you that we will continue to serve and protect in a way that seeks to calm fear and build trust. Your local law enforcement agencies look forward to continuing to partner with all of our residents to provide a safe environment for all.*

The purpose of this model policy is to establish consistent guidelines for immigration violation enforcement throughout Santa Clara County that upholds the principles of local community policing that the Police Chiefs' Association's March 9<sup>th</sup> statement articulates. Recognizing that agencies may have a policy that provides additional guidelines regarding immigration related enforcement activities, where those differences occur, officers should adhere to their respective agency policy.



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**ADOPTING MEMBERSHIP**

- **Campbell Police Department**  
Chief Dave Carmichael
- **Gilroy Police Department**  
Interim Chief Scot Smithee
- **Los Altos Police Department**  
Chief Andy Galea
- **Los Gatos-Monte Sereno Police Department**  
Interim Chief Mike D'antonio
- **Milpitas Police Department**  
Chief Steve Pangelinan
- **Morgan Hill Police Department**  
Chief David Swing
- **Mountain View Police Department**  
Chief Max Bosel
- **Palo Alto Police Department**  
Interim Chief Ron Watson
- **San Jose Police Department**  
Chief Edgardo Garcia
- **San Jose State University Police Department**  
Chief Pete Decena
- **Santa Clara County District Attorney's Office**  
D.A. Jeff Rosen
- **Santa Clara County Sheriff's Office**  
Sheriff Laurie Smith
- **Santa Clara Police Department**  
Chief Mike Sellers
- **Sunnyvale Department of Public Safety**  
Chief Phan Ngo

A handwritten signature in blue ink, appearing to read "David Swing", is written over a horizontal line.

Chief David Swing, Association President  
June 8, 2017



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#### **PURPOSE AND SCOPE**

In accordance with the intent of the March 9, 2017 statement by the Santa Clara County Police Chiefs' Association, this Department recognizes that mutual trust and respect is the cornerstone in building a solid foundation for success in protecting and serving the entire community, and in seeking justice for all victims of crime.

Law-abiding, undocumented immigrants should not fear arrest or deportation for coming forward to members of the Department to report a crime as a victim or a witness. As such, it is incumbent upon all members of this department to make a personal commitment to organizational values, equal enforcement of the law and equal service to the public, regardless of immigration status.

#### **DEFINITIONS**

**Administrative Warrants** - Administrative warrants, also called hold requests or detainers, are issued by a government agency, typically by Immigration and Custom Enforcement officials' findings that a person is removable from the United States.

**Alien** - An individual who is not a U.S. citizen or U.S. national.

**Illegal Alien** - Also known as an "Undocumented Alien," or "Undocumented Immigrant," is an alien who has entered the United States illegally and is deportable if apprehended, or an alien who entered the United States legally but who has fallen "out of status" and is deportable.

**Immigrant** - An alien who has been granted the right to reside permanently in the United States and to work without restrictions in the United States. Also known as a Lawful Permanent Resident, all immigrants are eventually issued a "green card."

**Judicial Warrants** – Judicial warrants are criminal warrants issued by a judicial officer, typically a magistrate judge.

**Nonimmigrant** - An alien who has been granted the right to reside temporarily in the United States based on a status that corresponds to the class of visa. Each nonimmigrant status has rules that must be followed in order for the nonimmigrant to remain "in status." A nonimmigrant who violates applicable rules will fall "out of status" and is considered deportable.

**U.S. National** - An individual who owes his/her sole allegiance to the United States, including all U.S. citizens, and including some individuals who are not U.S. citizens.

#### **DEPARTMENT POLICY**

The responsibility for enforcement of civil immigration laws rests with the U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO).

The Department will continue to cooperate with ICE in matters involving serious crimes, the protection of public safety, and as required by statute, federal regulation, or court decisions, other than the isolated immigration violations enumerated in Title 8 USC § 1304; 8 USC § 1324; 8 USC § 1325 and 8 USC § 1326.

#### **BASIS FOR CONTACT**

The Police Department is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any person. The decision to detain or arrest shall be based upon



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those factors which establish reasonable suspicion and probable cause respectively, and not on arbitrary aspects. Race, nationality, ethnicity, country of origin, inability to speak English, "foreign" appearance, dress, mannerisms, gender, sexual orientation, religion, and socioeconomic status alone are of no bearing on the decision to contact, detain, or arrest.

Officers will not detain or question a person for the purpose of discovering either the person's citizenship or status under civil immigration laws.

Officers will not detain or arrest any person on the basis of the person's citizenship or status under civil immigration laws.

Members of the Department will not initiate police action where the primary objective is to discover that the person is an undocumented immigrant or to discover the status of the person under civil immigration laws.

#### **ASSISTING ICE**

The Department does not conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

If a specific request is made by ICE or any other federal agency, this department will provide available support services, such as traffic control or peacekeeping efforts, during the federal operation.

Members of this department should not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance on a temporary basis or for officer safety. Any detention by a member of this department should be based upon the reasonable belief that an individual is involved in criminal activity, or where there is a valid judicial warrant.

ICE personnel shall not be allowed access to individuals detained or held at the Department, unless their access is required in the course of a criminal investigation, pursuant to a judicial warrant, or while providing services unrelated to the enforcement of civil immigration law.

#### **NOTIFICATION OF IMMIGRATION AND CUSTOMS ENFORCEMENT**

Generally, members of this department should not ask the immigration status of individuals taken into custody. The United States Department of State Consular Notification policy requires law enforcement to notify certain consular offices when a Foreign National is in custody. (Refer to U.S. Department of State website for complete details. <https://travel.state.gov/content/travel/en/consularnotification.html>). In these instances, the officer shall gather information to determine if consular notification applies. In compliance with state law, whenever an officer has reason to believe that any person arrested for any offense listed in Health & Safety Code §11369 or any other felony may not be a citizen of the United States and the individual is not going to be booked into county jail, the arresting officer shall cause ICE to be notified for consideration of an immigration hold. Generally, ICE notification of booked arrestees will be handled according to jail operations procedures.

#### **CONSIDERATIONS PRIOR TO REPORTING TO ICE**

All individuals, regardless of their immigration status, must feel secure that contacting law enforcement will not make them vulnerable to deportation. Members should not attempt to determine the immigration status of crime victims and witnesses or take enforcement action against them absent exigent circumstances or reasonable cause to believe that a crime victim or witness is involved in violating criminal laws. In making the determination whether to notify ICE in such circumstances, the officer, in



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consultation with a supervisor and approval from a command staff member, shall consider the seriousness of the offense and the potential impact to community safety.

Nothing in this policy is intended to restrict officers from exchanging legitimate law enforcement information with any other federal, state or local government entity (8 USC § 1373; 8 USC § 1644).

[INSERT DEPARTMENT'S U-VISA, T-VISA LANGUAGE]